

TEXT OF PROPOSED REGULATIONS

In the following text, strikethrough indicates deleted text and underlining indicates added text.

Existing Section 3045.2 is amended as follows:

Subsection (a) through subsection (e)(2)(E) is unchanged:

Subsection 3045.2(e)(2)(F) is amended to read:

(F) Infrequent visits. When ~~an inmate normally receives infrequent visits and~~ a visitor unexpectedly arrives. ~~Infrequent visits means not more than one visit every~~ who has not visited in the last six months, the visit will be considered an infrequent visit.

Subsection (e)(2)(G) is unchanged:

New subsection 3045.2(e)(2)(H) is adopted to read:

(H) Work assignment conflicts. When the inmate has not received a visit in the last 30 days and would otherwise be prohibited from visiting because of a conflict in work, training, or education assignment.

Subsection (f) through subsection (i) is unchanged.

Authority cited: Section 5058, Penal Code. **Reference:** Sections 2601, 2620, 2621, 2931, 2922 and 5045, Penal Code.

Existing Article 7 is repealed:

~~Article 7. Visiting~~

Existing Sections 3170 through 3179 are repealed:

~~3170. General Visiting Policy.~~

~~(a) The value of visiting as a means to establish and maintain meaningful family and community relationships is~~

~~recognized and encouraged. Visiting in institutions and facilities of the department will be conducted in as accommodating a manner as is possible in keeping with the need to maintain order, the safety of persons, the security of the institution, and required prison activities such as full-time work/training assignments.~~

~~(b) Inmates have the right to have personal visits while confined in the institutions and facilities of the department. The right to have visits will not be denied except as is necessary for the reasonable security of the institution and the safety of persons.~~

~~(c) Limitations on the length and frequency of visits and on the number of persons permitted to visit an inmate at the same time will be imposed to avoid overcrowding or the unequal allocation of visiting time or for other compelling reasons.~~

~~(d) Devices which do not allow physical contact between inmates and visitors will not be used except as is necessary in individual instances where substantial reasons exist to believe that physical contact with a visitor, visitors or with other inmates will seriously endanger the safety of persons or the security of the institution, or as a temporary measure as punishment for willful failure or refusal to abide by regulations related to visiting.~~

~~(e) The degree of informality of inmate visiting will be consistent with the overall security requirements of each institution. The amenities of visiting which exceed the right to have personal visits are privileges. Visits are subject to denial or restriction for violations of the conditions under which such activities are permitted, or as are necessary to provide a fair allocation of visiting resources and to the extent that visiting conflicts with other required prison activities such as full-time work/training assignments.~~

~~(f) The privacy of individuals and of their visits will not be imposed upon except as is necessary for the identification of persons, and to maintain order and acceptable conduct, and to prevent the introduction of items, commodities or substances which inmates are not permitted to possess.~~

~~(g) Inmates and their visitors shall only embrace and kiss at the beginning and end of each visit; except for holding hands, no other bodily contact shall be permitted.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601 and 5054, Penal Code; and In re French, 164 Cal Rptr. 800 (1980).~~

~~3170.5. Child Victim Visiting Restrictions.~~

~~Visiting shall be prohibited with the child victim(s) under 18 years of age of an inmate sentenced to prison for violating Penal Code Section 261, 264.1, 266c, 285, 286, 288, 288a, 288.5, or 289 unless specifically authorized by a juvenile court.~~

~~(a) For any inmate convicted of a crime listed above where the identity of the child victim(s) is known, the correctional case records specialist (CCRS) at the inmate's reception center shall review the inmate's central file for a court order restricting child victim visitation. In the absence of a court order restricting such visitation, the CCRS shall notify the sentencing court and request such order. The inmate shall be prohibited from visiting with the child victim(s) until such order is received, and after such order is received, unless one of the following conditions is met:~~

~~(1) A juvenile court orders that such visits be allowed pursuant to Welfare and Institutions Code Section 362.6.~~

~~(2) The victim(s) attains the age of 18.~~

~~(b) If the probation officer's report or the court order restricting visitation is unclear as to the identity of the child victim(s), the CCRS shall notify the sentencing court and request such clarification. The inmate shall be prohibited from visiting with any minor under 18 years of age until the court provides specific information which clarifies identification of the child victim(s).~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1202.05, 5054 and 5054.2, Penal Code; and Section 362.6, Welfare and Institutions Code.~~

~~3171. Plan of Operations.~~

~~(a) Wardens, superintendents and regional administrators will prepare and maintain a plan of operations for inmate visiting at their respective institutions and facilities where inmates and parolees reside. The director's approval is required before implementation and before any revision is made to an approved plan. All local visiting procedures must conform to the rules and regulations set forth in this article.~~

~~(b) Newly arriving inmates will be promptly and verbally informed of local visiting procedures and will be given a written summary of all rules, regulations and procedures governing visiting at the institution or facility in which confined. Additional copies will be readily available to inmates to give or send to their visitors. The written summary will include the institution's or facility's visiting schedule, any limitations placed on the frequency of visits, any limitations placed on the number of people who may be permitted to visit an inmate at any one time, guidelines on demeanor, and basic dress standards for visitors. These basic dress standards are as follows:~~

~~(1) All visitors must wear shoes or sandals;~~

~~(2) Visitors must be fully clothed blouses with skirts, pants or shorts, or dresses for women; shirts with pants or shorts for men.~~

~~(3) For security reasons visitors must not wear clothing that in any way resembles state issued inmate clothing (blue denim shirts and denim pants;)~~

~~(c) No limitations will be placed on the number of visitors which may be listed as approved for visiting. This same summary will be conspicuously displayed in all public entrances to the institution and will be available to any interested person.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2080, 2601(d), 2930, and 5054, Penal Code.~~

~~3172. Responsibility of Visitors.~~

~~Each inmate and visitor is responsible for his or her own conduct during visits. Violation of laws governing associations with prison inmates; rules set forth in this article; or of local procedures governing visits may result in termination, suspension, restriction, or denial of visiting with the person or persons involved, as described in section 3177 of this article.~~

~~3173. General Visiting Regulations.~~

~~Visiting will be permitted with those persons approved in accordance with the regulations set forth in this article and as included in approved operational plans.~~

~~(a) Visiting is permitted only in designated areas and at designated times.~~

~~(b) All visitors and inmates will be required to present proof of identity before being permitted to visit. Acceptable proof of identification for visitors may be, but is not restricted to, the following:~~

~~(1) Valid California Driver's license with picture (non-laminated);~~

~~(2) Department of Motor Vehicles identification card with picture;~~

~~(3) Valid federal passport with picture;~~

~~(4) Armed forces identification card with picture; or~~

~~(5) Identification cards issued by the United States Department of Justice-Immigration and Naturalization Service.~~

~~(c) The absence of identification or other information or knowledge from which identification can be verified will be cause for denial of visits until such verification is obtained.~~

~~(d) The taking of a visitor's fingerprints for the purpose of criminal records check may be a prerequisite of approval to visit, at the discretion of the warden, superintendent or regional administrator, or of his or her designated representative. Refusal to consent to fingerprinting and a records check may be cause for denial of visits. No records check documents or copies hereof will be placed in an inmate's files. All such documents and copies will be destroyed upon completion of the purpose for which they were obtained.~~

~~(e) Any person coming onto the grounds of an institution, their vehicle and the articles of property in their possession are subject to inspection to whatever degree is consistent with the institution's security needs. Such inspections may include a search of a visitor's person, property and vehicle when there is substantial reason to believe the visitor is attempting to smuggle unauthorized items or substances in or out of the institution.~~

~~(f) In all instances where the search of a visitor's person, property or vehicle exceeds that normally required for all visitors, the visitor will be verbally informed of the reason for the search and the name of the official ordering the search. A person who declines a search under such circumstances will be denied admission to the facility as described in Section 3177(e)(3). A written report covering the reason for any extraordinary search of a visitor's person, property or vehicle; the visitor's response, and the results of the search will be submitted to the warden superintendent by the official in charge of visiting no later than the first working day following the incident. A copy of the report, excluding confidential information, shall be given to the inmate whom the person visited or intended to visit, and to the visitor(s) as described in Section 3173(1)(1)-(4). A copy of the report excluding confidential information and any notice to the visitor(s), shall also be placed in the inmate's central file.~~

~~(g) Except when prior approval has been obtained from the warden, superintendent or community correctional center administrator for an inmate to visit with his or her unchaperoned minor children or siblings, visitors under 18 years of age must be accompanied by an adult who is also approved to visit, and have prior written approval from a parent or their legal guardian if the accompanying adult is not the minor's parent or legal guardian.~~

~~(h) The degree of physical contact permitted between inmates and visitors and of other informalities of visiting will vary between institutions and within institutions of the department. This will depend upon the institution's overall security requirements, the custody classification and assignment of individual inmates, and upon the degree of risk visiting will present to the safety of persons and for the introduction of dangerous contraband.~~

~~(i) Inmates may refuse to see a visitor. The refusal should be in writing and signed by the inmate. If the inmate will not write or sign a refusal to visit, the matter will be documented by staff. The inmate's written refusal of staff's documentation of the matter will be placed in the inmate's central file. The visitor and the inmate will be given a copy of the document that records the inmate's decision.~~

~~(j) When personal contact visits are permitted, the inmate and visitor may pass, exchange, examine or consume any item of property or food either party is permitted to bring into the visiting area. Except as specifically permitted by local visiting procedures, neither party may retain nor take from the visiting area anything which the other party was permitted to bring into the visiting area.~~

~~(k) Except for immediate family members as defined in section 3000, visiting with more than one inmate on the same occasion requires the approval of the warden or regional parole administrator where the inmates are confined. Prior approval to visit one or more inmates at the same or a different institution shall not be a bar to approving an application to visit an inmate or other inmates at the same or other institutions.~~

~~(l) Denial of an initial application to visit, and any subsequent restriction, suspension or termination of previously approved visits, shall be documented for inclusion in the inmate's central file. Such documentation shall clearly set forth the reason for the action, the length of time the action will apply and the circumstances under which the action will be reconsidered.~~

~~(1) When the applicant or visitor is present and is involved in the reason or cause for an adverse action affecting~~

~~his/her visits, the information spoken to above shall be included in a written notice given to the applicant or visitor on the day the action is taken. This notice shall include the name of the official taking or ordering the action, and instructions for appealing the action taken.~~

~~(2) If the applicant or visitor is not present when an adverse action is taken which affects visits, but is involved in the reason or cause for such an action, the official ordering or taking the action shall include the above information in a letter to the applicant or visitor. Such a letter should be sent to the applicant or visitor within five days of the effective date of the action.~~

~~(3) When the applicants or visitors are not present and not involved in the reason or cause for an adverse action affecting the inmate's visits, such as the actions of a disciplinary or classification committee, it shall be the inmate's responsibility to promptly notify his or her visitors of the action taken.~~

~~(4) All subsequent decisions made as the result of an appeal and the reasons for the decisions will be documented for the inmate's central file, with a copy to the appellant, and a copy to the inmate if the appeal was initiated by anyone other than the inmate. When the circumstances revealed in an appeal investigation find that no violation of rules, regulations or procedures exists, visiting will be promptly approved or restored, as appropriate.~~

~~(5) The provisions of this section shall be included in institution visiting procedures and in the summary of visiting procedures which are made available to inmates and their visitors.~~

~~(m) It is a felony for a former inmate to come on prison grounds for any reason without prior approval of the warden. A letter of request will normally be required. Telephoned requests will not be considered except in emergency situations. Requests to visit an inmate will require the completion of an application, CDC Form 105, by the inmate and the questionnaire, CDC Form 106, by the former inmate. Applications and questionnaires are subject to review and approval by the warden~~

~~or facility administrator before visiting is permitted. This review, which may include a criminal records check, may delay a decision to deny or approve the request for up to 30 days from the date a completed questionnaire, CDC Form 106, is received. Persons on parole, probation or outpatient status must also obtain and present written consent of their case supervisor before visiting will be approved. Regardless of the method used to request permission to come on the grounds for any reason, a former inmate may not come on the grounds until he or she has received written approval to do so. The authority to approve or deny visits by former inmates will not be delegated below the level of correctional lieutenant.~~

~~(n) Local procedures governing the conduct of inmates and visitors will apply as well to personnel assigned to supervise the visiting areas. For example, personnel will not smoke or eat in areas where inmates and visitors are not allowed to do so.~~

~~(o) Inmates who are otherwise eligible for physical contact visiting may be temporarily denied such contact as a penalty for violations related to visiting, including the inmate's unauthorized use or possession of drugs, narcotics, money or other dangerous contraband that has been introduced into the institution.~~

~~(p) Visitors with medically implanted or prosthetic devices who cannot clear the metal detector shall present a letter of verification signed by their physician, physiatrist, prosthetist, or orthotist detailing the nature of the medically implanted prosthetic device and its specific location in/on the body. The verification letter shall be updated annually.~~

~~(q) Visitors who require the use of a wheelchair or other assistive device(s) for mobility impairment shall present a letter of verification signed by their physician, physiatrist, prosthetist, or orthotist detailing the specific type of mobility impairment and verifying the need for a wheelchair or mobility assistive device. The verification letter shall be updated annually. The visitor shall temporarily transfer to a designated institution wheelchair while visiting staff conduct an inspection of the visitor's wheelchair. Visitors who present letters signed by their physician, physiatrist, prosthetist, or orthotist which detail a specific type of mobility impairment and verify the need for using battery powered wheelchairs or~~

~~custom designed wheelchairs shall be exempt from the process of transferring from their personal wheelchair. The visiting staff shall conduct a visual inspection of the personal wheelchair, and a hand held metal detector shall be used to process the visitor.~~

~~**NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601, 4570.5 and 5054, Penal Code.**~~

~~**3174. Family Visiting.**~~

~~Wardens will incorporate a plan for family visiting in the institution's overall plan for visiting referred to in section 3171. The family visiting plan will extend such visits to as many inmates as is possible commensurate with institution security and the requirements set forth in this section. Each institution will provide all necessary accommodations, except for food, at no cost to the inmates and their visitors, to permit extended and overnight visitation between eligible inmates and members of the inmate's immediate family members as defined in section 3000. Visitors must provide food for themselves and the inmate being visited. In keeping with the institution's approved plan of operations for family visiting, visitors may be required to bring all food for the visit, or, where family visiting units are located inside an institution's security areas, to purchase all food for the visit through the institution.~~

~~(a) When a bonafide and verified foster relationship exists between an inmate and another person, by virtue of being raised in the same foster family, the person may be approved for family visiting with the prior approval of the warden.~~

~~(b) Persons with only a common-law relationship to the inmate will not be recognized as immediate family members for the purpose of family visiting.~~

~~(c) Persons under eighteen years of age will not normally be permitted overnight family visits without the presence of another adult member of the inmate's immediate family. Exceptions include an inmate's legal spouse, the inmate's children or legal stepchildren and the inmate's own underage brothers or sisters when such unchaperoned visits are approved by the warden.~~

~~(d) A disciplinary or classification committee action which suspends or rescinds an inmate's eligibility for physical contact with a visitor or visitors during regular visiting will also preclude family visiting with that visitor or visitors for the same period of time. Family visits may be rescinded or suspended without such action affecting an inmate's eligibility for regular personal contact visits.~~

~~(e) Family visiting is a privilege. Eligibility for family visiting will be limited by the assignment of the inmate to a work/training incentive group as outlined in section 3044.~~

~~(1) Family visits shall not be permitted for inmates convicted of a violent offense involving a minor or family member or any sex offense, which includes but is not limited to the following Penal Code Sections: 187 (when the victim is a family member or minor); 192 (when the victim is a family member or minor); 261; 261.5; 262; 264.1; 266c; 266j; 273a; 273d; 273.5; 273.6; 285; 286; 288; 288a; 288.2; 288.5; 289; 289.5; 311.1; 311.2; 311.3; 311.4; 313.1; 314; or 647.6.~~

~~(2) Family visits shall not be permitted for inmates who are in any of the following categories: sentenced to life without the possibility of parole; sentenced to life, without a parole date established by the Board of Prison Terms; designated Close A or Close B custody; designated a condemned inmate; assigned to a reception center; assigned to an administrative segregation unit; assigned to a security housing unit; designated "C" status; guilty of one or more Division A or Division B offenses within the last twelve months; or guilty of narcotics trafficking while incarcerated in a state prison.~~

~~**NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.**~~

~~**3175. Attorney Visitation and Consultation.**~~

~~Inmates have a constitutional right of access to an attorney. It is the policy of this department to facilitate both correspondence and personal consultation for this purpose.~~

~~(a) Attorney visitation for the purpose of a private consultation with an inmate will be permitted during the institution's regularly scheduled visiting days and hours. Where~~

~~regular visiting is scheduled on weekdays and weekends, attorney visits should be scheduled on the weekdays so as not to detract from the available resources needed for the greater volume of weekend visits by friends and relatives.~~

~~(b) When an attorney, or a person authorized to act for an attorney, does not desire or require private consultation accommodations, the attorney or representative may visit an inmate on any scheduled visiting day without a prior appointment or notice to the institution. Such unannounced visits will be subject to the same requirements, accommodations, and services as nonattorney visits.~~

~~(c) When private consultation accommodations are desired, the attorney or the attorney's representative should contact the institution by a letter or telephone call sufficiently in advance of the desired date and time to permit scheduling of available staff and facilities for that purpose. When a prior appointment is made, the institution will have the inmate available for interview at the scheduled time. One week advance notice is desired, with 24 hour advance notice as the minimum required for such service. In an emergency, appointment requests may be cleared through the warden, superintendent or regional administrator.~~

~~(d) In order for an attorney to visit an inmate for the purpose of a private consultation, the attorney need only provide proof of identity, currently active registry with a state bar association, and the written consent of the inmate, in addition to the requested appointment or notice spoken to in subsection (c). Wardens, superintendents and regional administrators are authorized to require proof that an inmate has designated the attorney as his or her "attorney of record" or that a court has made such appointment when there is reason to believe the attorney is not acting in that capacity or is otherwise abusing the privilege of private consultation with the inmate.~~

~~(e) More than one attorney or persons acting on behalf of an attorney may visit in private consultation with an inmate at the same time. Wardens, superintendents and regional administrators may limit the number of such visitors to not more than two in keeping with the availability of facilities and of staff to supervise such visits.~~

~~(f) An attorney may designate, by name and in writing, not more than two representatives to interview an inmate or witnesses on behalf of the attorney. Such designated representatives will be afforded the same accommodation and services as an attorney, providing all other requirements of this section are met.~~

~~(g) Representatives acting in behalf of an inmate's attorney must be one of the following:~~

~~(1) A licensed investigator, licensed by any state.~~

~~(2) A law student certified under state bar rules for practical training of law students, and sponsored by the attorney.~~

~~(3) A legal paraprofessional certified by a state bar or other equivalent legal professional body, and sponsored by the attorney.~~

~~(4) A full-time employee of the attorney.~~

~~(5) A full time employee of the licensed investigator who has been properly authorized to act on behalf of an attorney.~~

~~(h) Authorization for one or more representatives to act for an attorney, or for a licensed investigator as provided in subsection (i), must be given in a letter, signed by the attorney or licensed investigator, to the warden, superintendent or regional administrator of the institution or facility to be visited. The letters must identify the designated representative by name and by one of the designations spoken to in (1) through (5) of subsection (g). The letters must include the name of the inmate or inmates to be interviewed. Interviews will be limited to only those inmates named. The letter(s) of authorization must be presented or be on file at the institution at the time of the visit. In addition to the letter of authorization to act for an attorney or licensed investigator, the representative must present proof of identity (see Section 3173(b)) to confirm that he or she is the person named in the letter.~~

~~(i) A licensed investigator, whose authorization to act for an attorney has been presented to the warden, superintendent or regional administrator of the institution or facility to be visited, may designate one or more of his or her own full-time employees to act for the investigator for the purpose of interviewing an inmate or inmates. A letter of authorization, signed by the investigator is required. The letter must identify the investigator's representative by name, certify that the person is a full-time employee of the investigator, and name the inmate or inmates to be interviewed. The representative must present proof of identify (see Section 3173(b)) to confirm that he or she is the person named in the letter. When properly authorized to act for an attorney, through a licensed investigator, the representative will be afforded the same accommodations and services as provided for attorneys or attorney's representative.~~

~~(j) Staff will not listen to or monitor conversations between an inmate and an attorney or between an inmate and a person authorized to act for an attorney or a licensed investigator. Any and all items including written and printed material that an inmate and an attorney or an attorney's representative wish to exchange during the visit must be presented to the official in charge of visiting for inspection before it is brought into the visiting area. The purpose of this inspection is to insure that contraband items are not enclosed. The inspecting official will not read any part of written or printed material without the expressed consent of the inmate or the attorney or attorney's representative.~~

~~(k) After proper inspection, written and printed material may be exchanged. The attorney or attorney's representative may retain and take from the visiting area and from the institution any written or printed material given to him or her by the inmate.~~

~~(l) The inmate may retain and take from the visiting area any written or printed material given to him or her by the attorney or an attorney's representative, providing the inmate consents to the examination of the material by the official in charge of visiting. The purpose of this examination is to insure against the transmission of material which would pose a serious threat to institution security if retained in the inmate's possession. Reading by the examining official will be limited to the minimum extent necessary to make a proper determination. The~~

~~examining official will keep any knowledge of the content in strict confidence.~~

~~(m) An inmate may refuse to consent to the examination by staff of any written or printed material given to the inmate by an attorney or an attorney's representative. When consent for examination is not given, the official in charge of visiting will immediately place the material in an envelope and seal the envelope in the presence of the inmate. The outside of the envelope will be annotated with the inmate's name and number; a notice that the content consists of unexamined confidential material received from (attorney or representative's name); and the date received. The official taking the action will sign the notation. The envelope will then be placed in the inmate's unissued personal property or be stored in another place designated by the warden, superintendent or regional administrator. The inmate will be allowed the maximum possible access to the material for review and examination in a manner which will prevent the material from being read by other inmates or staff.~~

~~(n) Audio recording of authorized interviews by attorneys and attorney representatives is permitted with the inmate's consent. Prior approval by institution officials is not required. Each institution will maintain audio recording equipment for that purpose. The interviewer may also use privately owned recording equipment providing the equipment can be thoroughly inspected by officials before entry into the institution.~~

~~(o) Video recording of authorized interviews with inmates is permitted with the prior approval of the warden or superintendent. Equipment must be provided by the interviewer, and is subject to inspection by institution officials. If the equipment cannot be thoroughly inspected without an undue risk of damage, the interviewer must agree to pay for the cost of escort and control of the equipment by institution officials while it is inside the institution.~~

~~(p) With prior approval of the warden, superintendent or regional administrator an attorney may attend meetings of institution staff for the purpose of discussing matters concerning his or her inmate clients. Attorneys will not be permitted to attend or participate in any conference or~~

~~committee meeting of staff and the inmate concerned, except as may be authorized in other sections of the director's rules and regulations. This will not preclude an attorney's submission of written views and comments for consideration by institution officials in their determinations affecting the inmate.~~

~~(q) Regulations governing attorney and attorney representative visits do not apply to student assistance and student assistant programs operating under agreements between the department, institutions and law schools. Such programs must be operated in accordance with the individual agreements.~~

~~(r) The director will be notified when any attorney or attorney's representative abuses the privacy permitted in visiting inmates and administrative action is taken to restrict such visits.~~

~~(s) The provisions of this section apply to any attorney authorized to practice in this or in any other state.~~

~~Comment: Former DP 2706, attorney visitation and consultation.~~

~~**NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601, 4570.5 and 5054, Penal Code, and Proeunier v. Martinez, 94 S. Ct. 1800 (1974).**~~

~~**3176. Exclusion of Persons From Institution.**~~

~~(a) The term "exclusion" as used in this section describes an administrative action by the director or by a warden, superintendent or regional administrator to bar, for cause, a person from entering an institution or facility of the department, when in the normal conduct of business, that person would otherwise be permitted to enter. Persons subject to being barred for cause include but are not limited to an inmate's attorney; representative acting on behalf of an attorney; representatives of the news media; delivery persons; and employees of the department and the departments component agencies.~~

~~(b) An order for exclusion from institutions or facilities of this department will be based only upon a determination by~~

~~the director or by a warden, superintendent or regional administrator that an individual's presence in the institution or facility will present a serious threat to security; the individual has been charged with a serious crime or is under investigation for a serious crime committed on institution property; the individual's business purpose for entering the institution is no longer valid or has been lawfully terminated. Temporary exclusion may be ordered pending investigation and verification of information leading to such tentative conclusions.~~

~~(c) Exclusion orders will be issued only by wardens, superintendents and regional administrators for their respective institutions and facilities, or by the director for any or all institutions and facilities. When a warden's, superintendent's or regional administrator's exclusion order affects an inmate's attorney, or when the matter may have departmentwide significance, an immediate telephone report will be made to the director. In all instances of exclusion a written report will be made to the director within two working days of the effective date of the order.~~

~~(d) The person excluded will be informed by letter of the action taken. The person will also be informed that an interview may be requested with the official who ordered the exclusion and an interview arranged at the convenience of both parties. The person excluded will also be informed that they may bring other persons, including an attorney, to the interview, and any information or evidence to support their position. Following an interview, the appellant will be informed by letter of the decision or determination made as the result of the interview. If the exclusion is sustained or if special conditions for entry into institutions are imposed, the reasons will be given. The appellant will also be informed that the decision may be appealed to the director. A copy of the letter to the appellant will be forwarded to the director and a copy will be retained in the institution's files. If the exclusion order is rescinded in full, such notice will also be in written form to the appellant, with a copy to the director.~~

~~Comment: Former DP 2707, exclusion of persons from institution.~~

~~3177. Approval and Denial of Visits.~~

~~The terms "approve," "deny," "suspend," "terminate," "reinstate" and "restric" as used in this article apply to actions which may be taken by institution or facility staff, acting under the delegated authority of the warden, superintendent or regional administrator, for the administration of the approved plan of operations for visitation between inmates and their families and friends. All such actions are subject to the provisions contained in the local approved plan of operations and to the rules and regulations set forth in this article.~~

~~(a) The authority to approved or deny written requests or applications to visit may be delegated by the warden, superintendent or regional administrator to designated staff members.~~

~~(b) The authority to approve or deny requests or applications to visit an inmate for persons who appear in person at an institution or facility and the authority to terminate an approved visit in progress, and to suspend approval for further visits, may be delegated to the official in charge of visiting at that time.~~

~~(c) Reasons for denial of a request or application to visit, by a prospective visitor or an inmate, include but are not limited to the following:~~

~~(1) Inadequate information available to establish positive identity of the prospective visitor. The request or application to visit will be reconsidered when positive identity is established.~~

~~(2) Deliberate falsification of identity by the prospective visitor or of the prospective visitor by the inmate. After positive identity of the prospective visitor has been established, and in keeping with the seriousness of the falsification, a time will be determined for reconsideration of a request to visit.~~

~~(3) Refusal by a prospective visitor or an approved visitor to submit to a search and inspection of their person or of vehicles and property brought onto the institution grounds.~~

~~(A) Refusal to submit to a requested search shall result in the visitor not being permitted to visit on that day. Future visits may be conditioned upon the visitor's willingness to submit to a search prior to each visit for as long as prison officials have reasonable cause to believe that the visitor will attempt to smuggle contraband into the institution.~~

~~(B) Conditions or restrictions placed on an inmate's visiting by a disciplinary or classification committee determination and action for reasons not directly related to a cause for searching the inmate's visitor(s) shall not be affected by the visitor's willingness or unwillingness to submit to a search, nor shall such prior disciplinary or classification committee actions be affected by the results of a search of the inmate's visitor(s) unless the inmate is found in a subsequent disciplinary hearing to have been a conspirator in an attempt to smuggle unauthorized or unlawful items or substances into or out of the institution.~~

~~(C) Visitors shall not be forcibly searched unless institution officials possess a court issued warrant to conduct the search, or unless the cause for a search arises while the visitor is on the institution grounds and the cause for the search is believed by institution officials to be a criminal offense. If institution officials have probable cause to believe that a visitor is in possession of contraband, the visitor may be forcibly detained while a search warrant is sought through the appropriate prosecutor's office.~~

~~(4) Any violation of state law committed on institution property by a visitor, pending investigation, prosecution and service of any sentence ordered by the court. If the offender is not prosecuted, approval to visit will be reconsidered upon request. If the individual is found not guilty by a court, a prior approval to visit will be reinstated. Upon completion of any sentence ordered by a court, a request to visit will be considered. Regardless of the outcome of any referral to prosecuting authorities, future visits are subject to possible restrictions as provided in section 3173(h).~~

~~(5) The prospective visitor has an extensive and recent history of criminal activity for offenses which are of particular sensitivity to institution security, such as transporting contraband in or out of correctional institutions; trafficking in narcotics in or outside of a correctional institution; aiding or attempting to aid in an escape or attempted escape from a correctional institution; the person is a crime partner of an inmate who is currently confined in a correctional institution for the same or a related offense. A time will be determined for reconsideration of a request to visit, in keeping with the circumstance and seriousness of the offenses involved and the need for institution security.~~

~~(6) The prospective visitor was confined in and was discharged from a correctional institution within the previous twelve months, and does not have the prior approval of the warden, superintendent or regional administrator. After one year from the date of a former inmate's discharge from an institution, or after discharge from parole or outpatient status, the warden or superintendent will not deny visiting by a former inmate for reasons that would not apply to any other person as set forth in this article.~~

~~(7) The prospective visitor is currently under parole, probation, or civil addict outpatient supervision and does not have written permission of his or her case supervisor and/or the prior approval of the warden or superintendent. A request to visit will be reconsidered when the case supervisor's permission is presented in writing, except as spoken to in subsection (5).~~

~~(8) The prospective visitor has had no prior personal or correspondence contact with the inmate before or during the inmate's incarceration; no family relationships exist between the prospective visitor and the inmate, and a reasonable and legitimate purpose is not given for visits. A request to visit will be reconsidered upon presentation of information and evidence to support a reasonable and legitimate reason to visit.~~

~~(9) Serious or repetitious violation of rules, regulations and procedures governing visits by an approved visitor or by an inmate while visiting with that person.~~

~~(A) When the violations(s) involve only the visitor, that individual's future visits may be restricted to the degree necessary to prevent further violations during subsequent visits, or the individual's approval to visit may be suspended for not longer than six months before reconsideration will be given, upon written request for such reconsideration. If approval to visit is not restored at that time, further consideration will be given at intervals not to exceed six months, upon request for such reconsideration.~~

~~(B) If the visitor and the inmate are both involved in the violation(s), the administrative actions spoken to in (9)(A) will be applied to future visits between the persons involved. In addition, and under circumstances where only the inmate is involved in the violation(s) the matter will be reported on a disciplinary report for appropriate action.~~

~~(C) Limitations and restrictions beyond those specified by a classification committee action may be placed on an inmate's visits for disciplinary offenses relating to visiting, drugs, narcotics and money as provided in Section 3173(o); or upon an inmate's transfer to another institution with a different approved plan of operations for visiting; or through an action by a classification committee which raises the degree of control and supervision to be exercised over all of the inmate's assignments and activities.~~

~~(10) An individual's approval to visit an inmate may be rescinded when information which would have resulted in denial of visits becomes known only after approval to visit has been granted; or for any activity or event occurring subsequent to the approval which would have resulted in denial of visits if it had occurred before approval was granted.~~

~~(11) The official in charge of visiting may deny a single visit or terminate a visit in progress under the following kinds of circumstances:~~

~~(A) The visitor appears intoxicated or under the influence of drugs to the extent that his or her presence in the institution would pose an undue threat to the safety of self or others, or a threat to the security of the institution.~~

~~(B) The visitor is not properly attired as described in Section 3171(b).~~

~~(C) The visitor is under 18 years of age and the conditions prescribed in Section 3173(g) have not been met.~~

~~(D) The visitor has a medically implanted or prosthetic device and cannot clear the metal detector but does not provide the written verification as required in Section 3173(p).~~

~~(E) The visitor requires the use of a wheelchair or other assistive device(s) for mobility impairment, but does not provide the written verification as required in Section 3173(q), or refuses to temporarily transfer to a designated institution wheelchair while the visitor's personal wheelchair is being inspected, unless exempted from transfer under the provisions of Section 3173(q).~~

~~(F) The visiting areas are in use to maximum capacity and it is necessary to terminate the visits of those persons who have been visiting for the longest period of time in order to allow others to visit.~~

~~(G) Serious violation of institution procedures governing visiting, or repetition of less serious violations and disregard for counseling about such violations.~~

~~(12) Upon denial or termination of a visit, the official taking the action will prepare a report noting reasons for denial or termination which will then be placed in institution files and the inmate's central file, with a copy promptly forwarded to the inmate. The report will be made available to involved parties in accordance with Section 3173(m).~~

~~(13) The ranking custody officer on duty or the supervising official in charge of visiting may restrict visits, but may not deny visiting, as a temporary security measure when an inmate is scheduled for a hearing on a Serious violation or a classification hearing on an order for placement in administrative segregation. Subsequent disciplinary or classification committee action will supersede any such temporary action.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2086, 2601, 2772, 2790, 4502, 4535, 4571, 4573, 4573.5, 4573.6 and 5054, Penal Code, and In re French, 106 Cal.App.3d 74 (1980).~~

~~3178. Appeals Relating to Visiting.~~

~~Inmates, visitors, and visiting applicants may appeal department policy and regulations as well as institution procedures and practices relating to visiting. All formal appeals are to be submitted in writing.~~

~~(a) Inmates will use the established inmate appeal procedures as provided in Section 3084 et seq.~~

~~(b) Persons other than inmates should address any appeal relating to department policy and regulations to the Director of Corrections. Appeals relating to facility and institution procedures and practices should be addressed, in writing, to the warden, superintendent or regional parole administrator of the facility or institution where an issue of appeal arises. The warden, superintendent or regional parole administrator shall provide a written response within 15 working days. Appeals that are not satisfactorily resolved at this level may be referred in writing to the director. The director shall have 20 working days from the date of receipt to provide a written response.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.~~

~~3179. Minimum Visiting Days and Hours.~~

~~(a) Each facility's visiting procedure supplement shall provide a minimum visiting schedule of no less than 12 hours per week. Any reduction of a facility's visiting schedule shall~~

~~require the prior approval of the director. Visiting days shall be contiguous and shall include Saturday and Sunday.~~

~~(b) Each facility shall allow visiting on the following holidays:~~

- ~~(1) New Year's Day.~~
- ~~(2) Independence Day.~~
- ~~(3) Labor Day.~~
- ~~(4) Thanksgiving Day.~~
- ~~(5) Christmas Day.~~

~~(c) When a holiday listed in (b) occurs on a day not regularly scheduled for visiting, each facility shall provide the same number of hours of visiting on that holiday as for any single regularly-scheduled visiting day.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601 and 5054, Penal Code. In re French, 164 Cal.Rptr. 800 (1980).~~

New Article 7 is added to read:

The heading of Article 7 is adopted to read:

Article 7. Visiting.

New Sections 3170 through 3179 are adopted to read:

3170. General Visiting.

(a) These regulations are made in recognition and consideration of the value of inmate visitation as a means of increasing safety in prisons, maintaining family and community connections, and preparing inmates for successful release and rehabilitation. It is the intent of these regulations to establish a visiting process in the institutions/facilities of the department that is conducted in as accommodating a manner as possible, subject to the need to maintain order, the safety of

persons, the security of the institution/facility, and required prison activities and operations.

(b) The privacy of inmates and their visitors shall be respected subject to the need to verify the identity of an inmate or visitor; enforce laws, regulations, and procedures; and/or ensure the safety of persons and institution/facility security. Video-recording devices may be utilized in visiting areas, excluding family visiting units or confidential attorney consultation areas.

(c) Visits with inmates may, without prior notification, be terminated, temporarily suspended, or modified in response to an institution/facility emergency as determined by the institution head or designee. Emergency modifications of the visiting schedule shall be posted at the institution/facility as soon as practical and will be included in the automated telephonic visiting information system.

(d) Devices that do not allow physical contact between inmates and visitors shall not normally be used, except as provided in section 3170.1 or as necessary in the following circumstances:

(1) Physical contact with a visitor(s), or with other inmates, will seriously endanger the safety of persons or the security of the institution/facility,

(2) As a temporary measure for willful failure or refusal to abide by visiting regulations.

(e) Each inmate and visitor is responsible for his or her own conduct during visits. Any Violation of laws, regulations, or local procedures governing visits may result in termination, suspension, revocation, or denial of visiting with the person or persons involved, as described in section 3176. Such violation may also result in exclusion from the facility, as described in section 3176.3.

(f) Reasonable accommodation shall be afforded visitors and inmates with disabilities to facilitate their full participation in contact, non-contact, or family visiting as provided in these rules.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 5054 and 6400, Penal Code; and In re French, 164 Cal Rptr. 800 (1980).

3170.1. General Visiting Guidelines.

(a) Visiting is permitted only in designated areas and at designated times.

(b) Inmates shall not be permitted to visit during the hours of their assignment to work, training, vocational and/or academic education, except as provided in section 3045.2.

(c) No limitations shall be placed on the number of visitors approved to visit an inmate. However, limitations on the length

and frequency of visits may be imposed to avoid overcrowding or the inequitable allocation of visiting time or for other reasons as provided in section 3176.

(1) An inmate shall not be permitted a contact visit with more than five persons, including minors, at the same time. Groups of visitors in excess of five may be accommodated only once per visit by means of rotation through the visiting area. Such rotation shall be considered a single visit in the event it is necessary to terminate a visit in progress in accordance with 3167(a)(9) and (10).

(2) An inmate shall not be permitted a non-contact visit with more than three persons, including minors, at the same time. Groups of visitors in excess of three may be accommodated only one per visit by means of rotation through the visiting area. Such rotation shall be considered a single visit in the event it is necessary to terminate a visit in progress in accordance with 3176(a)(9) and (10).

(d) Visiting with more than one inmate at the same time, shall require that both inmates are approved to visit in the same visiting room, and that either:

(1) The visitors and inmates are immediate family members; or

(2) The visitor(s) has prior written approval from the institution/facility head or designee.

(e) Inmates undergoing reception center processing shall be limited to non-contact visiting. If non-contact visiting cannot be accommodated because of physical plant limitations, the institution head shall take such limitations into account in establishing an alternative visiting plan. Inmates with disabilities, who remain at the reception center for extended stays (exceeding 60 days) due to their disability, shall be authorized regular visiting privileges.

(f) Inmates assigned to Administrative Segregation and Security Housing Units shall be eligible for non-contact visits only. On a case-by-case basis, the institution head or designee may allow contact visits for administratively segregated inmates. Visitors who have made appointments in advance for non-contact Administrative Segregation and Security Housing Unit visits shall be given priority. Non-contact visits shall be scheduled in one-hour increments and may be extended based on space availability. When overcrowding occurs, those who have visited at least one-hour and who have been visiting for the longest time may have their visits terminated as outlined in sections 3176(a)(9) and (10).

(g) During contact visits, the inmate and visitor may pass, exchange, or examine any item of property or consume food either party is permitted to bring into or purchase in the visiting area, except those items that are deemed to be contraband when

in the possession of the inmate. Neither party may retain or take anything from the visiting area which the other party was permitted to bring into or purchase in the visiting area, except legal documents as provided in section 3178, and photographs that are taken during the visit.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 4570.5 and 5054, Penal Code.

3171. Visiting Procedures.

(a) The institution head shall maintain visiting procedures for inmate visiting at each institution/facility. All local visiting procedures must conform to and shall not conflict with the rules and regulations set forth in this article. The degree of informality of inmate visiting will be consistent with the security requirements of each institution/facility.

(b) Inmates shall be informed of local visiting procedures and shall be given a written summary of all rules, regulations and procedures governing visiting at the institution/facility. Additional copies shall be readily available for inmates to give or send to their visitors. The written summary shall include the institution/facility visiting schedule. This same summary will be conspicuously displayed in all public entrances to the institution/facility and will be available to any interested person. Institutions/facilities shall have the visiting days

and hours, as well as appropriate dress standards, clearly published in the visiting centers and in the visitor processing area.

(c) Inmates may refuse to see a visitor. Such refusal shall not result in removal of the visitor from the inmate's visitor list. To remove a visitor from their approved visitor list, inmates shall submit a written request to the visiting staff. After six months, the inmate may make a written request to have the visitor placed back on their approved visitor list. At this time, the visitor shall reapply for approval to visit by submitting a visiting questionnaire.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2080, 2601(d), 2930, and 5054, Penal Code.

3172. Applying to Visit an Inmate.

(a) It is the inmate's responsibility to forward a visiting questionnaire to any prospective visitor.

(b) All adults seeking to visit an inmate shall provide a completed visiting questionnaire and obtain institution/facility approval before they may be permitted to visit with an inmate.

(1) An emancipated minor shall apply as an adult visitor, and shall provide a certified copy of the court order granting emancipation.

(2) A minor legal spouse of an inmate may apply to visit the inmate as an adult visitor with a certified copy of their marriage license.

(c) Minor visitors shall have prior written approval from a parent or legal guardian unless the minor applies as an adult as provided in (b) above. Except when prior approval has been obtained from the institution head or designee for an inmate to visit with his or her unchaperoned minor children or siblings, visitors under 18 years of age shall be accompanied by an adult who is also approved to visit.

(d) It is a felony for any former prison inmate to come on institution/facility property for any reason, without prior approval of the institution head or designee. Requests must be made in writing and include a visiting questionnaire and a Certificate of Discharge. Parolees and prospective visitors under probation or civil addict outpatient supervision shall provide written proof of permission to make such a visit from their case supervisor.

(e) The visiting approval application process shall include an inquiry of personal, identifying, and the arrest history information of the prospective visitor sufficient to complete a criminal records clearance and a decision by the institution/facility designated staff to approve or disapprove based upon the information provided. This

information is subject to periodic review by designated staff. Any change in the visitor's name, address, telephone number, or arrest history must be reported and may require submission of an updated questionnaire in order to retain the status of an approved visitor.

(f) Previously approved visitors shall submit a new visiting questionnaire prior to visiting any inmate who has been returned to an institution/facility from parole or admitted into a substance abuse treatment control unit while on parole. The visitor shall not be allowed to visit prior to obtaining the institution/facility approval.

(g) The applicant shall return the completed questionnaire to the institution/facility via common carrier or personal delivery (except as provided in subsection (d) above) addressed to the attention of "Visiting". Any questionnaire received by the visiting office directly from an inmate shall be disapproved. Approved visitors required to update information in accordance with (e) above, shall, absent information which would warrant immediate disapproval, be allowed to continue to visit pending review and approval/disapproval of the questionnaire.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 4571 and 5054, Penal Code.

3172.1 Approval/Disapproval of Prospective Visitors.

(a) The authority to approve or disapprove prospective visitors may be delegated by the institution head. This authority shall not be delegated below the level of a correctional sergeant or parole agent II.

(b) Reasons for disapproving a prospective visitor include but are not limited to the following:

(1) The prospective visitor has outstanding arrests/warrants including a Department of Motor Vehicles Failure to Appear notice with no disposition from the court.

(2) The prospective visitor has one felony conviction within the last three years or two felony convictions within the last six years or three or more felony convictions during the last ten years.

(3) The prospective visitor has any one conviction of the following types of offenses:

(A) Distributing a controlled substance into or out of a state prison, correctional institution/facility or jail.

(B) Transporting contraband (weapons, alcohol, escape and drug paraphernalia, etc.) in or out of a state prison, correctional institution/facility or jail.

(C) Aiding or attempting to aid in an escape or attempted escape from a state prison, correctional institution/facility or jail.

(D) The prospective visitor is a co-offender of the incarcerated inmate.

(4) The prospective visitor is a former prison inmate who has not received the prior written approval of the institution head or designee. After one year from the date of a former inmate's discharge from an institution/facility, or after discharge from parole or outpatient status, the institution head will only deny visiting by a former prison inmate for reasons that would apply to any other person as set forth in this article.

(5) The prospective visitor is a supervised parolee, probationer, or on civil addict outpatient status and has not received written permission of his or her case supervisor and/or the prior approval of the institution head.

(6) The identity of the prospective visitor or any information on the visiting questionnaire, is omitted or falsified.

(A) If the prospective visitor has omitted information, the request to visit shall be reconsidered when the information is provided.

(B) If the applicant has falsified information no other request to visit shall be considered until six months after the date of disapproval.

(C) When positive identity cannot be established or clearing the criminal history of the prospective visitor is not possible due to inadequate or conflicting information, the visiting request will be reconsidered when positive identity is established.

(c) The documentation of the approval or disapproval of an application to visit shall be in writing.

(1) If the application is approved, inmates shall be notified in writing and are responsible for informing their prospective visitor(s) of the institution/facility decision to approve the application.

(2) If disapproved, the prospective visitor and inmate shall both be notified in writing. The prospective visitor's notification shall include the specific reason(s) for disapproval and instructions regarding the process for reconsideration.

(d) The prospective visitor may appeal the disapproval by following the established visitor appeal process described in section 3179.

(e) Approval to visit an inmate is conditioned upon compliance with all laws, regulations, and procedures governing visitor conduct on institution/facility property.

(f) There are no restrictions on the number of inmates that a visitor may be approved to visit at one or more institution/facility.

(g) Any visitor approved for visiting at one institution/facility shall be approved to visit the same inmate upon transfer to another institution/facility provided the visitor's approval status remains unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3172.2. Minimum Visiting Days and Hours.

(a) Each institution/facility shall provide visiting for no less than 12 hours per week. Any reduction of an institution/facility visiting schedule below 12 hours shall require the prior approval of the director or designee. Regular visiting days shall be consecutive and include Saturday and Sunday.

(b) Each institution head shall develop an operational supplement that includes the respective visiting schedules as follows:

(1) Regular Visiting Days: Four days (Thursday through Sunday); or Three days (Friday through Sunday); or Two days (Saturday and Sunday); and

(2) Holiday Visiting Days: New Year's Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

(3) Visiting Appointments: The institution/facility shall specify procedures and criteria for scheduling visiting appointments for non-contact visits in accordance with the provisions of this article.

(c) When a holiday listed in (b)(2) occurs on a day not regularly scheduled for visiting, each institution/facility shall provide the same number of hours of visiting on that holiday as for any single regularly scheduled visiting day.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, and 5054, Penal Code. In re French, 164 Cal. Rptr. 800 (1980).

3173. Processing of Approved Visitors.

(a) Approved visitors shall complete a visitor pass upon their arrival at the institution/facility visitor processing center and their approval to visit shall be verified.

(b) All adult visitors shall present picture identification before being permitted to visit. For each minor, a certified record of birth (official birth certificate, or county embossed abstract of birth) shall be presented during each visit.

(c) Acceptable proof of picture identification for visitors may be, but is not restricted to, the following valid documents:

- (1) Driver's license with picture,
- (2) Department of Motor Vehicles identification card with picture,
- (3) Picture passport,
- (4) Armed forces identification card with picture,
- (5) Picture identification cards issued by the United States Department of Justice--Immigration and Naturalization Service, or
- (6) Picture identification issued by the Mexican Consulate.

(d) Minors may be allowed to visit an inmate subject to the restrictions of section 3173.1. If the accompanying adult is not the parent or legal guardian of the minor, a notarized written consent shall be required from a person with legal custody of the minor, authorizing the minor to visit while accompanied by a designated adult.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3173.1. Visiting Restrictions with Minors.

Visiting with minors shall be prohibited for any inmate sentenced to prison for violating Penal Code section(s) 261, 264.1, 266c, 273d, 285, 286, 288, 288a, 288.5, or 289 unless specifically authorized by a juvenile court, pursuant to Welfare

and Institutions Code section 362.6. Inmates may be prohibited from having contact or non-contact visits where substantial evidence (e.g., court transcripts, police or probation officer reports or parole revocation hearing findings describing the misconduct) of the misconduct described in section 3177(b)(1) exists, with or without a criminal conviction.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1202.05, 5054 and 5054.2, Penal Code; and Section 362.6, Welfare and Institutions Code.

3173.2. Searches and Inspections.

(a) Any person coming onto the property of an institution/facility shall be subject to inspection as necessary to ensure institution/facility security including prevention of the introduction of contraband. Inspections may include a search of the visitor's person, personal property and vehicle(s) when there is probable cause to believe the visitor is attempting to introduce or remove contraband or unauthorized items or substances into, or out of, the institution/facility.

(b) Visitors shall not be forcibly searched unless institution/facility officials possess a court issued warrant to conduct the search, or are being detained for unlawful actions or activities in accordance with section 3292.

(c) Visitors shall be required to submit to contraband and/or metal detection device(s), and a thorough search of

all personal items, including inspection of a wheelchair, implant, prosthesis or assistive device, prior to being allowed to visit with an inmate.

(d) Visitors with medically implanted or prosthetic devices who cannot clear the metal detection device and/or visitors who require the use of a wheelchair or other assistive devices for mobility impairment shall present a letter of verification signed by their physician, physiatrist, prosthetist, or orthotist. The letter must confirm the mobility impairment, and/or the nature of the medically implanted prosthetic device and its specific location in/on the body, and the need for any assistive device. The authorization letter shall be renewed every two years.

(e) Visitors who require the use of a wheelchair shall temporarily transfer to a designated institution/facility wheelchair, when available, while visiting staff conduct an inspection of the visitor's wheelchair. Visitors who present a letter signed by their physician that confirms the need for using a battery powered or custom designed wheelchair shall be exempt from the requirement of transferring from their personal wheelchair. In such cases, the visitor shall permit an inspection of the personal wheelchair and allow a hand held metal detection device to be used.

(f) Except as provided in subsection (b), if the search of any visitor's person, property or vehicle exceeds that which is normally required for all visitors, the visitor shall be informed in writing of the reason for the search and the name of the official ordering the search. Consent shall be obtained from the visitor prior to the search.

(g) A visitor who refuses to be searched shall be denied visiting for that day.

(1) The inmate and the visitor who refused to be searched shall be notified in writing as described in section 3176(a)(3).

(2) Future visits may be conditioned upon the visitor's willingness to submit to a search prior to each visit for as long as institution/facility officials have probable cause to believe that the visitor will attempt to introduce contraband or unauthorized substances into the institution/facility.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3174. Standards of Dress for Inmate Visitors.

(a) Visitors are expected to dress appropriately and maintain a standard of conduct during visiting that is not offensive to others. Consistent with the goal of making

visiting a safe, positive, constructive time for families and staff, the following standards shall apply:

(1) Visitors shall remain fully clothed at all times in the visiting room.

(2) Appropriate attire includes undergarments; a dress or blouse/shirt with skirt/pants/ or shorts; and shoes or sandals.

(3) For security reasons, no brassiere will have metal underwires.

(b) Prohibited attire consists of:

(1) Clothing that resembles state-issued inmate clothing (blue denim or blue chambray shirts and blue denim pants);

(2) Clothing that resembles law enforcement or military-type clothing, including rain gear;

(3) Clothing or garments that:

(A) Expose the breast/chest area, genitals or buttocks;

(B) By design, the manner worn, or due to the absence of, excessively allows the anatomical detail of body parts or midriff to be clearly viewed;

(C) Are sheer, transparent or excessively tight;

(D) Expose more than two inches above the knee, including slits when standing.

(E) Undergarments shall be worn beneath translucent clothing, under all circumstances.

(4) Clothing or accessories displaying obscene or offensive language, drawings or objects.

(5) Gloves, head coverings (except clear, see-through rain gear), and readily removable wigs or hairpieces. The institution head or designee may grant an exception for a visitor to wear gloves, head coverings, and/or readily removable hairpieces or wigs, based upon verification of need. Written approval shall be required prior to visiting and subject to staff inspection during any visit. The institution head or designee may also grant a general exception allowing visitors to wear gloves and head coverings based upon weather conditions at the institution/facility.

(6) Any other clothing, garment or accessory when worn in a manner that would be prohibited in (b)(1) through (5) above.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3175. Standards of Conduct for Inmates and their Visitors.

(a) Inmates and visitors shall comply with all laws, regulations, and institution/facility procedures. Any violation may result in denial, termination, suspension, restriction, or revocation, of visiting as described in section 3176.

(b) Accompanying adults shall ensure that minors remain under their constant control and supervision.

(c) Nursing mothers shall be discreet and covered when breast-feeding their children in the visiting area. Failure to do so shall result in termination of visiting for that day.

(d) Inmates and their visitors may hold hands.

(e) At the beginning and end of each visit, inmates and their visitors may briefly embrace and/or kiss.

(f) An inmate may hold his or her minor children. Inmates may also hold minor children accompanied by an adult.

(g) Except as provided in this section, no other bodily contact shall be permitted.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3176. Denial, Restriction, Suspension, Termination or Revocation of Visits and Exclusion of a Person.

The terms "approve," "disapprove" "deny," "restrict," "suspend," "terminate," "revoke," and "reinstate" as used in this article apply to actions which may be taken by the institution head or designee for the administration of visiting. The director or institution head may, for cause, exclude a person from entering institutions/facilities of the Department. All such actions are subject to the provisions set forth in this article.

(a) The official in charge of visiting may deny an approved visitor access to an institution/facility, terminate, or restrict a visit in progress for the following reasons:

(1) The visitor appears to be under the influence of alcohol, drugs or other substance to the extent that his or her presence in the institution/facility would pose an undue threat to his or her safety or the safety of others, or to the security of the institution/facility.

(2) The visitor does not provide the identification and/or documentation required as set forth in these regulations.

(3) The visitor refuses to submit to a search and inspection of his/her person or vehicles and property brought onto the institution/facility grounds.

(A) Visitors who refuse to submit to an unclothed body search, where probable cause exists, shall have their visiting privileges denied for that day. Future visits may be conditioned upon the visitor's willingness to submit to an unclothed body search prior to being allowed to visit. Such searches may be repeated on subsequent visits for as long as institution/facility officials have probable cause to believe that the visitor will attempt to introduce contraband or unauthorized substances or items into the institution/facility.

(B) The willingness or unwillingness of the visitor to submit to a search shall not affect conditions or restrictions

placed on an inmate's visiting privileges by a disciplinary or classification committee unless the inmate is found in a subsequent disciplinary hearing to have been a conspirator to smuggle contraband into or out of the institution/facility.

(4) Conduct in violation of institution/facility procedures, including excessive physical contact, refusal to follow staff instructions, disruption of the visiting/processing area, destruction/alteration of visiting documents, or any other behavior that would constitute a misdemeanor or felony or repetition of less serious violations and disregard for a warning about such violations.

(5) The visitor is not appropriately dressed.

(6) The visitor is under 18 years of age and the conditions prescribed in section 3173(b) have not been met.

(7) The visitor has a medically implanted or prosthetic device, cannot clear the contraband or metal detection devices, and does not provide the written verification required in section 3173.2(d).

(8) The visitor requires the use of a wheelchair or other assistive device(s) for mobility impairment, but does not provide the written verification as required in section 3173.2(e), or refuses to temporarily transfer to a designated institution/facility wheelchair while the visitor's personal wheelchair is being inspected.

(9) The maximum capacity of the visiting area has been reached and to allow others to visit it is necessary to terminate the visits of those persons who have been visiting for the longest period of time. Exceptions shall include, but are not limited to the following:

(A) Excessive Distance: The visitor has traveled a distance of 250 miles or more, and has not visited within the last 30 days. This exception applies to two consecutive days of visiting.

(B) Weddings: When an inmate and the visitor's marriage ceremony occurred on that day.

(C) Disabled: A disabled visitor who must rely on special transportation to the institution/facility.

(D) Family Emergencies: When death, serious illness or injury occurs to an inmate's immediate family. Clergy or approved visitors may visit the inmate to offer condolences or inform the inmate of the occurrence.

(E) Infrequent Visits: When the visitor has not visited the inmate in the last six months.

(10) When the overcrowding situation persists, visits of those remaining will be terminated as necessary.

(b) Written notification shall be provided to the visitor when action is taken by the official in charge of visiting to deny, terminate or restrict a visit. The written notification

shall contain information instructing the visitor how to appeal the action as outlined in section 3179.

(c) The institution head or designee may revoke or suspend an approved visitor's future visits for a specified period of time for the following reasons:

(1) Information, which would have resulted in disapproval of visits in section 3172.1, becomes known after approval to visit has been granted.

(2) The visitor has been involved in a serious violation or multiple less serious violations of CDC regulations.

(d) The ranking custody officer on duty or the official in charge of visiting may restrict visits, but may not deny visiting, as a temporary security measure when an inmate is scheduled for a hearing on a serious rules violation or for classification on an order for placement in administrative segregation. Subsequent disciplinary or classification committee action will supersede any such temporary action.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3176.1. Visitor Violation Process.

Any person seeking entry into an institution/facility for the purpose of visiting an inmate shall be subject to all applicable laws, rules and regulations. Any person violating a law, rule

or regulation while visiting shall be subject to warning, termination, suspension, and/or revocation as described below:

(a) **Warning.** Visitors may be verbally warned about violations of applicable law, rules, regulations or of local procedures governing visits. When a verbal warning achieves corrective action, a written report of the misconduct or warning is not necessary.

(b) **Termination.** When verbal warnings and/or restrictions fail to achieve compliance, or fail to deter conduct by a visitor that if committed by an inmate would constitute a serious rules violation, the visit shall be terminated and documented in writing.

(c) **Suspension up to six months.** For serious or repeated violations of the rules, regulations, or procedures, and/or upon belief of the visitor's involvement in a criminal act and pending the outcome of an investigation, the official in charge of visiting may impose a suspension of the visitor's access to the visiting program for up to 6 months. The length of suspension shall be commensurate with the seriousness of the violation.

(d) **Suspension up to 12 months.** The institution head or designee may impose a suspension of visiting for up to 12 months when a visitor is involved in criminal activity on

institution/facility property which constitutes a misdemeanor.

(e) **Suspension up to 24 months.** The director or designee may impose a suspension of visiting privileges up to 24 months when a visitor is involved in criminal activity on institution/facility property that constitutes a felony.

(f) **Revocation.** Subsequent discovery of information that would have resulted in disapproval or disqualifying conduct are grounds for revocation of the previously granted permission to visit an inmate.

(g) The visitor and the inmate shall be notified in writing of all formal warnings, terminations, suspensions and revocations. The notice shall clearly state the reason for the action and length of time any sanction will apply. The notification shall also include the signature of the official taking the action and advise the visitor of the right to appeal in accordance with section 3179. The notification shall be provided to the visitor at the time of the action or mailed to the visitor's last known address within five working days of the action.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3176.2. Violation of State Law on Institution/Facility Property.

Any violation of state law, misdemeanor, or felony committed on institution/facility grounds or property by a visitor may be referred to prosecuting authorities.

(a) Upon determination by the official in charge of visiting that a violation of state law has occurred, the visitor's access to the visiting program shall be suspended pending investigation, prosecution, and service of any sentence ordered by the court.

(1) If the individual is not prosecuted, or upon completion of any court ordered sentence, approval to visit shall be reconsidered upon the visitor's written request.

(2) If a court finds the individual not guilty, a prior approval to visit shall be reinstated upon written request of the visitor.

(b) Regardless of the outcome of any referral to prosecuting authorities, future visits are subject to restrictions as provided in section 3176.1.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

**3176.3: Exclusion of a Person from Institutions/
Facilities.**

(a) The term "exclusion" as used in this article describes an administrative action by the director or institution head to bar, for cause, a person from entering institutions/facilities of the department, when that person would otherwise be permitted to enter. The director may delegate the authority for exclusion no lower than the rank of deputy director. The institution head may delegate the exclusion authority not lower than the chief deputy warden. Any person, including employees of the department, attorneys, attorney representatives, representatives of the news media, and delivery persons, may be excluded. The exclusion of a person is effected by issuance of an exclusion order.

(b) Exclusion orders shall be issued only when the director or institution head determines one or more of the following:

(1) The person's presence in the institution/facility presents a serious threat to security.

(2) The person is charged with a felony.

(3) The person is under investigation for a felony committed on institution/facility property.

(4) The person's purpose for entering an institution/facility is no longer valid or has been lawfully terminated.

(5) The person has committed any offense described in subsection 3178(r)(3) for which exclusion is an appropriate penalty.

(c) A temporary exclusion may be ordered pending investigation and/or verification of the cause for exclusion.

(d) The director or designee may exclude a person from any or all institutions/facilities. An institution head or designee may issue an order to exclude a person only from the institution/facility within his/her jurisdiction.

(e) When the institution head's exclusion order affects an inmate's attorney, or when the matter may have department wide significance, an immediate telephone report will be made to the director. In all instances of exclusion a written report will be made to the director or designee within two working days of the effective date of the order.

(f) The person excluded shall be provided with written notification of the action taken. The notification shall advise the person that, upon request, a meeting with the official who ordered the exclusion may be arranged at the convenience of both parties, and that he/she may bring other persons to the meeting, including an attorney, and any information or evidence to

support his/her position. Following the meeting, the person shall be provided the official's written decision within 20 working days.

(1) If the exclusion is modified to permit the person's entry only under special conditions, the reasons shall be given.

(2) If an institution head ordered the exclusion, the person shall also be informed that the decision may be appealed to the director.

(3) A copy of the letter to the person shall be forwarded to the director or designee and a copy shall be retained in the institution/facility files.

(4) If the exclusion letter is rescinded in full, notice of the rescission will be given in writing to the person, with a copy to the director or designee.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3176.4. Restriction, Revocation or Suspension of an Inmate's Visits.

(a) Designated staff, not below the rank of correctional lieutenant or parole agent II, may temporarily impose non-contact visiting restrictions as a necessary security measure for an inmate who is pending a serious disciplinary hearing for the distribution and/or possession/control of a controlled substance, possession of money or other dangerous contraband

that has been introduced into the institution/facility, or for other violations related to visiting.

(b) Pursuant to section 3314, a hearing officer conducting an administrative rules violation hearing may restrict an inmate's visiting privileges for up to 30 days when the inmate is found guilty of visiting related misconduct.

(c) Upon a finding of guilt of a drug related offense, as described in subsections 3323(c)(7) and/or 3323(d)(6), the official conducting a disciplinary hearing, shall suspend and restrict an inmate's visiting privileges pursuant to subsections 3315(f)(5)(H) and 3315(f)(5)(I).

(d) Pursuant to section 3315, the official conducting a disciplinary hearing may suspend or restrict an inmate's visiting privileges for up to 90 days, when the inmate is found guilty of any of the following serious rule violations:

(1) Possession of \$5.00 or more without authorization.

(2) Visiting related violations presenting a threat as described in section 3315(a)(2).

(3) Serious or repeated violations of visiting regulations or procedures.

(e) Suspension and or restriction of visiting may be imposed by a classification committee for a specific period of time when there is substantial reason(s) to believe that the inmate poses a

threat to the security of the institution/facility and or safety of persons.

(1) Separate from the disciplinary authority of the senior hearing officer as provided in section 3315, a classification committee may suspend and restrict the visiting privileges of an inmate found guilty of multiple visiting related violations as described in section 3176.4(d). The committee may impose the following suspensions and restrictions:

(A) Suspension of visiting privileges for up to 90 days, to be followed by non-contact visiting for up to 180 days for any second offense which occurs within two years from the date of a previous offense.

(B) Suspension of visiting privileges for up to 180 days, to be followed by non-contact visiting for up to 180 days for any third offense which occurs within two years from the date of a first offense.

(2) A classification committee may impose a loss of visits for 180 days, to be followed by non-contact visits for 180 days, for escape or attempted escape when the inmate is found guilty by a disciplinary hearing officer or court.

(f) When the inmate's visiting privilege status has been modified or changed, the inmate shall be responsible for promptly notifying his or her visitor(s) of the action taken.

(g) Any suspensions under this section shall not apply to attorney visits including visits by attorney representatives.

NOTE: Authority cited: CCR Section 5058, Penal Code. Reference: CCR Sections 2086, 2772, 2790, 4502, 4535, 4571, 4573, 4573.5, 4573.6 and 5054, Penal Code; and In re French, 106 Cal.App.3d 74 (1980).

3177. Family Visiting (Overnight).

Institution heads shall maintain family visiting policies and procedures. Family visits are extended overnight visits, provided for eligible inmates and their immediate family members, commensurate with institution security, space availability, and pursuant to these regulations. Each institution shall provide all necessary accommodations, except for food, at no cost to the inmates and their visitors. Institutions shall require eligible inmates to purchase all food for the family visit through the institution family visiting coordinator. Each institution family visiting menu shall provide a balanced variety of nutritional selections. At all CDC conservation camps, the visitors shall be required to bring all food for the visit.

Persons with only a common-law relationship to the inmate will not be recognized as immediate family members for the purpose of family visiting. Only those immediate family members as defined in section 3000 are authorized for family visits.

(a) When a bonafide and verified foster relationship exists between an inmate and another person, by virtue of being raised in the same foster family, the person may be approved for family visiting with the prior approval of the institution head or designee.

(b) Family visiting is a privilege. Eligibility for family visiting shall be limited by the assignment of the inmate to a qualifying work/training incentive group as outlined in section 3044.

(1) Family visits shall not be permitted for inmates convicted of a violent offense involving a minor or family member or any sex offense, which includes but is not limited to the following Penal Code sections: 187 (when the victim is a family member or minor); 192 (when the victim is a family member or minor); 243.4 261; 261.5, 262; 264.1; 266c; 266j; 273a; 273d; 273.5; 273.6; 285; 286; 288; 288a; 288.2; 288.5; 289; 289.5; 311.1; 311.2; 311.3; 311.4; 313.1; 314; or 647.6.

(A) Inmates may be prohibited from family visiting where substantial documented evidence or information of the misconduct described in section 3177(b)(1) exists, without a criminal conviction. The evidence or information appropriate for the purpose of this regulation shall include rule violation reports as well as the standard described in section 3173.1.

(B) Family visiting shall be restricted as necessary to maintain order, the safety of persons, the security of the institution/facility, and required prison activities and operations, pursuant to section 3170.

(2) Family visits shall not be permitted for inmates who are in any of the following categories: sentenced to life without the possibility of parole; sentenced to life, without a parole date established by the Board of Prison Terms; designated Close A or Close B custody; designated a condemned inmate; assigned to a reception center; assigned to an administrative segregation unit; assigned to a security housing unit; designated "C" status; guilty of one or more Division A or Division B offense(s) within the last 12 months; or guilty of narcotics distribution while incarcerated in a state prison.

(3) Family visits shall be permitted only in CDC institutions and conservation camps.

(c) Unescorted minors of the inmate's immediate family shall not participate in family visits. Exceptions include an inmate's legal spouse, the inmate's children or legal stepchildren and the inmate's own brothers or sisters when the institution head or designee approves such unchaperoned visits.

(d) Inmates shall not be eligible for a family visit while any action that restricts, suspends, or denies their contact with a visitor or visitors during regular visiting is in effect.

Family visits may be revoked or suspended without such action affecting an inmate's eligibility for contact or non-contact visits.

(e) Each inmate shall be subject to disciplinary action, which may include suspension or exclusion from participation in the family visiting program, for any willful damage of the unit and/or furnishings or for failure to maintain the cleanliness of the family visiting program unit.

(f) Visitors failing to report to the visitor processing area by 11:00 a.m. without the notification and approval of the family visiting coordinator are subject to cancellation of the visit and suspension of family visiting program privileges for six months.

(g) Inmates with a disability requiring an accommodation for family visits shall give 72 hours notice of any request for accommodation.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

3178. Attorney Visitations and Consultation.

(a) The provisions of this section apply to any attorney or legal service organization as identified in section 3141(c)(8) authorized to practice law in California, another state, or the District of Columbia.

(b) A private consultation between an inmate and his or her attorney or attorney representative is known as an attorney visit. Attorney visits shall be conducted in a confidential area specified by the institution/facility. Attorney visiting shall normally be accommodated during the institution/facility regularly scheduled visiting days and hours. Where regular visiting is scheduled on both weekdays and weekends, the scheduling preference will be on weekdays because of the personnel and resources needed for the greater volume of weekend visits by friends and relatives.

(1) When an institution/facility visiting schedule only provide(s) for visiting on weekends an attorney visit shall be scheduled during normal weekday business hours upon written request of the attorney or attorney representative.

(2) The institution head or the official in charge of visiting has the discretion to authorize a contact attorney visit for an inmate on non-contact visiting status.

(3) If an attorney, or attorney representative, does not desire private accommodations, the attorney or attorney representative may visit the inmate on any scheduled visiting day and shall be provided the same accommodations including the schedule, as a regular visitor.

(c) An attorney or court may designate other persons to act on their behalf as attorney representatives.

(1) Attorney representatives must be one of the following:

(A) A private investigator licensed by any state and sponsored by the attorney or appointed by the court.

(B) An investigator who is employed by a government agency, public agency or public institution.

(C) A law student sponsored by the attorney.

(D) A legal para-professional sponsored by the attorney or appointed by the court.

(E) An employee of an attorney, legitimate legal service organization, or licensed private investigator who is sponsored by the attorney or licensed private investigator.

(2) Personnel retained by an attorney or attorney representative, including, but not limited to certified sign language interpreters, certified language interpreters and court reporters may accompany the attorney or attorney representative during the private consultation and are required to provide the information requested in (c)(3) below. Licensed mental or medical health care professionals may also serve as attorney representatives and do not have to be accompanied by the attorney.

(3) The designation shall be in writing and signed by the attorney and/or judge, and shall contain the following:

(A) The designee's name and position of employment or title.

(B) The designee's date of birth, driver's license and social security number.

(C) Certification, in the form of a license that the representative is a licensed private investigator retained by the attorney or appointed by the court; or valid identification that the investigator is employed by a government agency, public agency, or public institution; or a letter in the form of a declaration, that the attorney representative is being sponsored by the attorney and that the attorney accepts responsibility for all actions taken by the attorney representative.

(D) The name and CDC number of the inmate(s) to be visited.

(E) The designation shall be presented by the representative at the time of the visit and shall be subject to verification by institution/facility staff.

(4) Attorney representatives shall be afforded the same accommodations and services and are subject to the same rules and regulations, as an attorney providing all other requirements of this article are met.

(d) An attorney who wishes to consult in person with an inmate shall contact the institution/facility at which the inmate is housed. The request shall be made by calling or writing (including via facsimile) the staff designated (usually the litigation coordinator) in the institution/facility operational supplement. In order to obtain approval/clearance,

the attorney shall provide the following personal and professional information in writing (including via facsimile): name; mailing address; date of birth, valid driver's license or state-issued identification card number; proof of current registry and good standing with a governing bar association; and indication of the jurisdiction(s) licensed to practice law. Requesting attorneys must also report any prior felony convictions, explain any prior suspension or exclusion from a correctional facility and declare one or more of the following:

(1) They are the inmate's attorney either by appointment by the court or at the inmate's request;

(2) They have been requested by a judge to interview a named inmate for purposes of possible appointment as counsel by the same court;

(3) They are requesting to visit an inmate who may be a witness directly relevant to a legal process, purpose, or proceeding;

(4) They are seeking to interview a named inmate, at the request of the inmate, for the purpose of representation of the inmate in a legal process, for a legal purpose or in a legal proceeding.

(5) They have been requested by a third party to consult with the inmate when the inmate cannot do so because of a medical condition, disability, or other circumstance.

(e) Any false statement or deliberate misrepresentation of facts specific to the information requested in subsection (d) above shall be grounds for denying the request and/or cause for subsequent suspension or exclusion from all institutions/facilities administered by the department.

(f) Upon receipt of the information specified in (d) above, a California Law Enforcement Telecommunications System check of the attorney through the Department of Justice and verification of the attorney's credential through the governing state bar will be conducted. Once the clearance and state bar verification have been obtained and approved, the attorney shall be contacted to schedule the initial in-person visit with the specified inmate(s). Attorneys and attorney representatives must report any change in personal or professional information, arrest history and declarations made in subsections (c) and (d) above to retain their approval/clearance.

(g) While five days notice to schedule an attorney visit is requested an approved attorney or approved attorney representative shall provide the institution/facility with no less than two business days notice to schedule a private consultation with an inmate. In an emergency, appointment requests may be cleared through the institution head or designee.

(h) Upon arrival at the institution/facility, the approved attorney shall be processed into the institution/facility in the same manner and under the same restrictions as regular visitors. Attorneys shall also be required to present their state bar card or other similar documentation that they are currently registered in good standing with a state bar association.

(i) To follow-up on information obtained during a private consultation with an inmate, attorneys or attorney representatives may request to visit inmates other than those already formally represented. Such requests shall be considered subject to reasonable operational limitations. If the request imposes an unreasonable burden on staffing or unduly disrupts an institutional function, e.g., interferes with count or feeding, it will be deemed unreasonable and the request will be denied.

(j) When there is cause to believe an attorney or a legal service organization is abusing the privilege of private consultation with the inmate, the institution head is authorized to:

(1) Require proof that the inmate and attorney are involved in active litigation or have a legitimate legal reason for contact.

(2) Initiate an investigation of the facts and circumstances of the situation.

(k) An attorney request for the deposition of an inmate shall be made in writing to the institution head. The request shall include:

(1) The name and CDC number of the inmate.

(2) The name and other identifying information of the court reporter.

(3) The specific date and time requested for taking the deposition.

(l) Not more than two attorneys or attorney representatives may visit privately with an inmate or witness at the same time. Exceptions may be authorized by the official in charge of visiting commensurate with space and staff availability.

(m) Conversations between an inmate and an attorney and/or attorney representative shall not be listened to or monitored, except for that visual observation by staff which is necessary for the safety and security of the institution/facility.

(n) All items, including legal documents permitted into the security area, shall be inspected for contraband and/or unauthorized items or substances. The inmate may retain and take from the visiting area any legal documents given to him or her by the attorney or attorney representative, providing the inmate consents to staff examination of the documents for contraband or unauthorized items or substances.

(1) Staff may open and inspect but shall not read any part of written or printed materials without the expressed consent of the attorney/attorney representative and inmate.

(2) Any and all items including written and printed material that an inmate and an attorney wish to exchange during the visit must be presented to the official in charge of visiting for inspection before it is brought into the visiting area. The purpose of this inspection is to ensure the contents pose no threat to the security or safety of the institution/facility, including the introduction of unauthorized drugs, controlled substances, and contraband as defined in section 3006.

(3) If the inmate does not consent to an inspection of the contents of a document given to the inmate by the attorney/attorney representative, it shall be returned to the attorney/attorney representative.

(o) After proper inspection, written and printed material may be exchanged. The attorney or attorney representative may retain and take from the visiting area and from the institution/facility any legal written or printed documents given to them by the inmate and not otherwise prohibited by law or these regulations.

(p) An attorney or attorney representative may be permitted, with the inmate's consent, to audio record the inmate's interview.

(1) The institution/facility shall make audio recording equipment available for such use. The interviewer may use personal recording equipment providing the equipment can be thoroughly inspected by staff before entry into the institution/facility.

(2) The attorney or attorney representative must provide a factory sealed audiotape/compact disc(s).

(q) The institution head or designee may authorize video recording of inmate interviews, with the inmate's consent.

(1) Video recording equipment provided by the attorney shall be thoroughly inspected by staff before entry into the institution/facility and searched for contraband.

(2) If the attorney's or attorney representative's video equipment cannot be thoroughly searched without an undue risk of damage, the equipment shall be permitted only if the attorney or attorney representative agrees to pay for staff to escort and control the equipment while inside the institution/facility. The pay for such staff escorts shall be at the state established hourly wage, including rates for overtime when necessary.

(3) The attorney or attorney representative must provide factory sealed videotape(s).

(r) Attorneys shall not be permitted to attend or participate in any conference or committee meeting of staff and the inmate concerned, except as may be authorized in these regulations.

(s) Administrative action may be taken by the institution/facility head or designee to restrict, where cause exists, the confidential privileges, including confidential visiting, mail and/or telephone privileges, and/or normal visiting privileges afforded an attorney or attorney representative based upon the schedule contained in this section:

(1) A written warning notifying the attorney or attorney representative that the offender's confidential legal privileges are subject to modification/suspension and that the offender will be subject to exclusion for a minimum of six months. Written warnings are appropriate for minor infraction or violations of the institution/facility regulations, i.e., violations that cannot be prosecuted as either a misdemeanor or felony.

(2) Modification, suspension, or exclusion of visiting privileges for a period of at least six months shall occur in the event that the written warning above fails to deter or correct the offending behavior.

(3) Committing an act that jeopardizes the life of a person, violates the security of the facility, constitutes a misdemeanor or a felony, or is a reoccurrence of previous violations shall result in a one-year to lifetime exclusion depending on the severity of the offense in question. Exclusions shall be made

in accordance with section 3176.3 and the appeal process in section 3179.

(t) The director or designee shall be notified in writing within 48 hours when administrative action is taken to restrict visiting privileges of an attorney or attorney representative.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601, 4570.5 and 5054, Penal Code; and Procunier v. Martinez, 94 S. Ct. 1800 (1974).

3179. Appeals Relating to Visiting.

(a) Inmates, and approved inmate visitors, and visiting applicants may appeal in writing department policies, staff decisions, and institution/facility procedures relating to visiting.

(1) Inmates shall use the established inmate appeal procedures as provided in section(s) 3084 through 3085.

(2) All appeals by approved inmate visitors and visiting applicants related to visiting shall be submitted to the institution head.

(b) Visitor appeals related to institution/facility procedures or staff decisions shall be addressed to the institution head. A written response shall be provided within 15 working days from receipt of the appeal. If dissatisfied with the institution/facility response or action, the appellant

may refer the appeal, with a copy of the institution/facility decision, to the director or designee.

(c) Appeals related to visiting shall be addressed to the director. A written response to appeals addressed to the director shall be provided within 20 working days from the date of receipt.

(d) All subsequent decisions made as the result of an appeal and the reasons for the decisions shall be documented with a copy to the appellant and/or inmate. Visiting privileges shall be promptly approved or restored when an investigation concludes that no violation of rules, regulations, or procedures took place.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.